

CANADIAN RAILWAY OFFICE OF ARBITRATION

CASE NO. 3130

Heard in Montreal, Wednesday, July 12, 2000

concerning

VIA RAIL CANADA INC.

and

BROTHERHOOD OF LOCOMOTIVE ENGINEERS

DISPUTE:

Giulio Tersigni – Bennet Mechanical Comprehension Test.

JOINT STATEMENT OF ISSUE:

The Brotherhood contends that the Corporation has improperly administered and/or evaluated the Bennet Mechanical Comprehension Test taken by Mr. Tersigni.

The Corporation denies the Brotherhood's contention.

FOR THE BROTHERHOOD:

(SGD.) J. L. SHIELDS
FOR: GENERAL CHAIRMAN

FOR THE CORPORATION:

(SGD.) J. LAFLEUR
FOR: DIRECTOR, LABOUR RELATIONS

There appeared on behalf of the Corporation (among others):

J. Lafleur – Counsel, Montreal

And on behalf of the Brotherhood (among others):

J. L. Shields – Counsel, Ottawa

J. Tofflemire – General Chairman, Toronto

AWARD OF THE ARBITRATOR

Mr. Tersigni scored thirty on the Bennet Mechanical Comprehension Test. The only issue of substance raised by Mr. Tersigni to question the test result is his complaint that he had difficulty reading some of the drawings in the body of the test. He relates that he was wearing his prescription eyeglasses, but that a number of the drawings appeared blurry to him and were difficult to read.

A copy of the test as it was presented to the employees was tabled in evidence. It is obviously a photocopied document which contains a number of sketches and diagrams which may not be as clear as an original printed version might be. The Arbitrator is satisfied, however, that there is sufficient clarity in the presentation to permit a fair taking of the test. Absent any suggestion that the grievor protested during the course of the test itself, for example by telling the person administering the test that he could not read it, it is difficult to conclude that the quality of the printing was a material factor in the failing grade received by Mr. Tersigni, a grade which, it may be noted, failed by a substantial margin.

For these reasons Mr. Tersigni's grievance must be dismissed.

July 14, 2000

(signed) MICHEL G. PICHER
ARBITRATOR